



STATE OF IOWA  
MASTER AGREEMENT

MA# 005 CT90-0151L X 5

EFFECTIVE BEGIN DATE: 08-29-2005  
EXPIRATION DATE: 06-29-2012  
PAGE: 1 of 5

BUYER : ASHLEY SUPER  
ashley.super@iowa.gov  
515-281-7073

FOB FOB Dest, Freight Prepaid

PAYMENT TERMS (%): DAYS:

**VENDOR:**

Hewlett Packard Fin Serv  
PO Box 402582

Atlanta, GA 30384-2582  
USA

**VENDOR CONTACT:**

Amy Hunter

PHONE: 708-974-3621

EMAIL: amy.hunter@HP.COM

VENDOR #: 76052392301

EXT:

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**DESCRIPTION OF ITEMS CONTRACTED**

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**LEASING - OFFICE & COMPUTER MASTER AGREEMENT**

This short form contract for ordering purposes in i3 only. The actual agreement is on file in the Department Of Administrative Services, General Services Enterprise, Purchasing Division, Level A, Hoover Building, Des Moines, IA 50319.

Agencies are to fax their order direct to HPFS, Attn: Amy Hunter, Fax # 888-277-5940.

All orders shall be accompanied by the following documents which are available from The Dept Of Admin Services, General Services Enterprise web site at:

[http://das.gse.iowa.gov/gen\\_info/guide.html](http://das.gse.iowa.gov/gen_info/guide.html)

1) "Acknowledgement For Compaq" (If not already on file with DAS) 2) "Compliance Certification And Statement Of Warranty Agreement" formatted per Exhibit B of the General Lease Agreement. 3) "Product Order Sheet" formatted per Exhibit A of The General Lease Agreement.

Additional Information available from:  
Sam Natale, Financial Area Manager, Midwest  
HP Financial Services  
10528 S. 84th Ave  
Palos Hills, IL 60465  
Ph: 708-974-3621  
Fax: 708-974-3758  
Email: sam.natale@hp.com

**RENEWAL PERIODS**

**FROM** 09-03-2005 **TO** 09-02-2006  
**FROM** 06-30-2012 **TO** 06-29-2013  
**FROM** 06-30-2013 **TO** 06-29-2014  
**FROM** 07-01-2014 **TO** 06-30-2015



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FROM 07-01-2015 TO 06-30-2016  
FROM 06-30-2016 TO 06-29-2017

**THRESHOLDS**

MINIMUM ORDER AMOUNT:  
MAXIMUM ORDER AMOUNT:  
NOT TO EXCEED AMOUNT:

**AUTHORIZED DEPARTMENT**

ALL  
SUB Political Sub-divisions

**TOTAL \$0.00**

VENDOR: \_\_\_\_\_

APPROVED BY: \_\_\_\_\_

THIS MA IS SUBJECT TO THE TERMS AND  
CONDITIONS ATTACHED HERETO.  
PLEASE SEE ATTACHMENTS FOR  
FURTHER DESCRIPTIONS.



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LINE NO.	QUANTITY / SERVICE DATES	UNIT	COMMODITY / DESCRIPTION	UNIT COST / PRICE OF SERVICE
1	0.00000		984	\$0.000000
				\$0.000000
			RENTAL OR LEASE SERVICES OF COMPUTERS, DATA PROCESSING, AND Agencies are to fax their order direct to HPFS, Attn: Amy Hunter, Fax # 888-277-5940.	
			Additional Information available from: Sam Natale, Financial Area Manager, Midwest HP Financial Services 10528 S. 84th Ave Palos Hills, IL 60465 Ph: 708-974-3621 Fax: 708-974-3758 Email: sam.natale@hp.com	



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## **TERMS AND CONDITIONS**

### **Incorporation**

The Request for Proposal and/or bid documents for this project and the vendor's proposal in response to the RFP or Bid together with any clarifications, attachments, appendices, or amendments of the State or the Vendor are incorporated into this Contract by reference as if fully set forth in this Contract.

### **Remedies upon Default**

In any case where the vendor has failed to deliver or has delivered non-conforming goods and/or services, the State shall provide a cure notice. The notice to cure shall state the maximum length of time the vendor has to cure. If after the time period stated in the notice to cure has passed, the vendor continues to be in default, the State may procure goods and/or services in substitution from another source and charge the difference between the contracted price and the market price to the defaulting vendor. The State's Attorney General shall be requested to make collection from the defaulting vendor.

### **Force Majeure**

Force majeure includes acts of God, war, civil disturbance and any other causes which are beyond the control and anticipation of the party affected and which, by the exercise of reasonable diligence, the party was unable to anticipate or prevent. These provisions of force majeure also apply to subcontractors or suppliers of the Vendor. Force majeure does not include financial difficulties of the Vendor or any associated company of the Vendor, or claims or court orders that restrict the Vendor's ability to deliver the goods or services contemplated by this Agreement. Neither the Vendor nor the State shall be liable to the other for any delay or failure of performance of this Agreement caused by a force majeure, and not as a result of the fault or negligence of a party.

### **Subcontractors**

The successful vendor shall be responsible for all acts and performance of any subcontractor or secondary supplier that the successful vendor may engage for the completion of any contract with the State. A delay that results from a subcontractor's conduct, negligence or failure to perform shall not exempt the vendor from default remedies. The successful vendor shall be responsible for payment to all subcontractors and all other third parties.

### **Termination-Non-Appropriation**

Notwithstanding any other provision of this contract, if funds anticipated for the continued fulfillment of this contract are at any time not forthcoming or insufficient, either through the failure of the State to appropriate funds, discontinuance or material alteration of the program for which funds were provided, then the State shall have the right to terminate this contract without penalty by giving not less than thirty (30) days written notice documenting the lack of funding, discontinuance or program alteration.

### **Immunity of State/Fed Agencies**

The vendor shall defend and hold harmless the State and Federal funding source for the State of Iowa from liability arising from the vendor's performance of this contract and the vendor's activities with subcontracted and all other third parties.

### **Assignment**

Vendors may not assign contracts or purchase orders to any party (including financial institutions) without written permission of the General Services Enterprise - Purchasing.

### **Anti-Trust Assignment**

For good cause and as consideration for executing this purchase order, the vendor, through its duly authorized agent, conveys, sells, assigns, and transfers to the State of Iowa all rights, title and interest in and to all causes of action it may now or hereafter acquire under the anti-trust laws of the United States and the State of Iowa, relating to the particular goods or services purchased or acquired by the State of Iowa pursuant to the using State of Iowa agency.

### **Delivery and Acceptance**

When an award has been made to a vendor and the purchase order issued, deliveries are to be made in the following manner.

A. Deliveries - All deliveries are to be made only to the point specified on the purchase order. If delivery is made to any other point, it shall be the responsibility of the vendor to promptly reship to the correct location. Failure to deliver procured goods on time may result in cancellation of an order or termination of a contract at the option of the State.

B. Delivery Charges - All delivery charges should be to the account of the vendor whenever possible. If not, all delivery charges should be prepaid by vendor and added to the invoice.

C. Notice of Rejection - The nature of any rejections of a shipment, based on apparent deficiencies disclosed by ordinary methods of inspection, will be given by the receiving agency to the vendor and carrier within a reasonable time after delivery of the item, with a copy of this notice to the General Services Enterprise - Purchasing. Notice of latent deficiencies which would make items unsatisfactory for the purpose intended may be given by the State of Iowa at any time after acceptance.

### **Delivery and Acceptance (cont)**

D. Disposition of Rejected item - The vendor must remove at the vendor's expense any item rejected by the State. If the vendor fails to remove that rejected item, the State may dispose of the item by offering the same for sale, deduct any accrued expense and remit the balance to the vendor.

E. Testing After Delivery - Laboratory analysis of an item or other means of testing may be required after delivery. In such cases, vendors will be notified in writing that a special test is being made and that payment will be withheld until completion of the testing process.

### **Title to Goods**

The vendor warrants that the goods purchased hereunder are free from all liens, claims or encumbrances.

### **Indemnification**

To the extent that goods are not manufactured in accordance with the State's design, the vendor shall defend, indemnify and hold harmless the State of Iowa, the State's assignees, and other users of the goods from and against any claim of infringement of any Letter Patent, Trade Names, Trademark, Copyright or Trade Secrets by reason of sale or use of any articles purchased hereunder. The State shall promptly notify the vendor of any such claim.

### **Nondiscrimination**

The vendor is subject to and must comply with all federal and state requirements concerning fair employment and will not discriminate between or among them by reason of race, color, religion, sex, national origin or physical handicap.

### **Warranty**

The vendor expressly warrants that all goods supplied shall be merchantable in accordance with the Uniform Commercial Code, Section 2-314 and the Iowa Code, Section 554.2314.

### **Taxes**



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The State of Iowa is exempt from the payment of Iowa sales tax, motor vehicle fuel tax and any other Iowa tax that may be applied to a specified commodity and/or service. Contractors performing construction activities are required to pay state sales tax on the cost of materials. The Iowa Department of Revenue exemption letter will be furnished to a vendor upon request.

**Hazardous Material**

All packaging, transportation, and handling of hazardous materials shall be in accordance with applicable federal and state regulations including, but not limited to, the Material Safety Data Sheet provision of O.S.H.A. Hazard Communication Standard 29CFR 1910.1200, and Iowa Administrative Code, Chapter 567.

**Public Records**

The laws of the State of Iowa require procurement records to be made public unless exempted by the Code of Iowa.

**Miscellaneous**

The terms and provisions of this contract shall be construed in accordance with the laws of the State of Iowa. Any and all litigation or actions commenced in connection with this contract shall be brought in Des Moines, Iowa, in Polk County District Court for the State of Iowa. If however, jurisdiction is not proper in Polk County District Court, the action shall only be brought in the United States District Court for the Southern District of Iowa, Central Division, providing that jurisdiction is proper in that forum. This provision shall not be construed as waiving any immunity to suit or liability, which may be available to the State of Iowa.

If any provision of this contract is held to be invalid or unenforceable, the remainder shall be valid and enforceable.

**Records Retention**

The vendor shall maintain books, records, and documents which sufficiently and properly document and calculate all charges billed to the State of Iowa throughout the term of this Agreement for a period of at least five (5) years following the date of final payment or completion of any required audit, whichever is later. The vendor shall at, no charge, permit the Auditor of the State of Iowa, or any authorized representative of the State (or where federal funds are involved, the Comptroller General of the United States or any other authorized representative of the United States government) to access and examine, audit, excerpt and transcribe any directly pertinent books, documents, papers, electronic or optically stored and created records, or other records of the vendor relating to orders, invoices, or payments documentation or materials pertaining to this Agreement.

**Independent Contractor**

The vendor is an independent contractor performing services for the State of Iowa, and as such shall not hold itself out as an employee or agent of the State.

**Performance Monitoring**

For all service contracts, the requirements of Iowa Code sections 8.47 shall be incorporated into final terms and conditions of the contract.

**OTH**

LISTED BELOW



i n v e n t

## hp financial services

Douglas R. Ahrens  
Operations Manager  
Hewlett-Packard Financial Services Company  
420 Mountain Avenue  
P.O. Box 6  
Murray Hill, NJ 07974

August 19, 2005

State of Iowa  
Iowa Department of General Services  
Level A, Hoover Building  
Des Moines, IA 50319-0105  
Attention: Ashley Super, PA III

Re: **Lease Agreement:** Lease Agreement No. 101230 by and between State of Iowa, Iowa Department of General Services, for and on behalf of State Agencies and Instrumentalities of the State of Iowa, as lessee ("Lessee"), and Hewlett-Packard Financial Services Company, successor-in-interest to Compaq Financial Services Corporation, as lessor ("Lessor"), (the "Lease Agreement").

Dear Ms. Super:

Lessee and Lessor have previously entered into the above-referenced Lease Agreement and now Lessee and Lessor desire to amend the Lease Agreement pursuant to the terms of this amendment letter (this "Amendment").

Lessee and Lessor mutually agree that the terms of the Lease Agreement are hereby amended as follows:

1. Notwithstanding any other term to the contrary currently set forth in the Lease Agreement, the term of the Lease Agreement is extended as being valid through September 27, 2006 (the "Lease Term").
2. The term "Equipment" appearing in section 4 of the Lease Agreement shall be changed to "Product" so as to conform to the other sections of the Lease Agreement.
3. The following additional terms are hereby approved by Lessor and Lessee as sample Product return requirements that may be incorporated into any particular Product Order Schedule upon the mutual agreement of the Lessor and Lessee using an addendum thereto.

**PRODUCT RETURN REQUIREMENTS.** As soon as practicable following the last day of the term of this Schedule (and any other time Lessee is required to return all Product to Lessor), but in no event later than three (3) days thereafter, Lessee shall carefully de-install the Product in accordance with the manufacturer's specifications and guidelines, and deliver the Product to Lessor, for Lessor's pick-up at Lessee's loading dock at Lessee's facilities (individually each a "Designated Pick-up Location" and collectively the "Designated Pick-up Locations"). Tender of Product for return to Lessor shall be made at a mutually agreeable time during Lessee's regular business hours. Lessor shall cause its authorized carrier to pack the Product, pick up the Product at the applicable Designated Pick-up Location, and to ship the Product, insured, to Lessor's designated return facility(ies). So long as the Designated Pick-up Location is within the continental United States, no Default has occurred, and Lessee tenders at least fifteen (15) Pieces of Product per pick-up of Product at each Designated Pick-up Location ("Minimum Pickup"), all actual charges from the Designated Pick-up Locations to Lessor's return facility(ies) shall be borne by Lessor; provided, however, that, Lessee shall pay further return charges if any one or more of the foregoing assumptions in this sentence are not applicable as follows: a) in the event Lessee fails to tender the Minimum Pickup, Lessee shall pay a minimum charge of \$\_\_\_\_\_ which shall be payable by Lessee promptly upon Lessor's demand therefor after the return

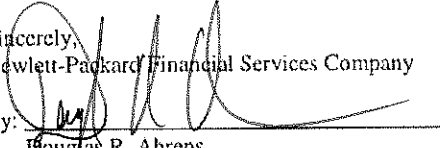
of the Product into Lessor's possession; b) if the Designated Pick-up Location is not within the continental United States then Lessee shall pay such other price as customarily charged by Lessor for such location; and c) if a Default occurs, Lessee shall pay all actual costs of any Product packing, transportation, in-transit insurance and shipping. For purposes of this section in respect to the Lease Agreement, the term "Piece of Product" shall mean any one physically separate piece of standard size office or computer product, including, without limitation, central processing units (e.g. notebooks) and servers; associated computer equipment, including, without limitation, scanners, monitors, dumb terminals, hubs, routers, printers and related peripherals; and other office equipment, including, without limitation, fax machines, overhead projectors, and desktop copiers. Small, non-serialized computer products, such as a mouse, external drives or cables, and other such accessories shall not be counted as separate Pieces of Product hereunder, and may be grouped in a desktop monitor box as one Piece of Product, and up to 15 keyboards may be grouped together as one Piece of Product. All Products shall be returned to Lessor in the same condition and working order as when delivered to Lessee, reasonable wear and tear excepted, and shall qualify for maintenance service by the Vendor at its then standard rates for Product of that age, if available. Lessee shall be responsible for, and shall reimburse Lessor promptly on demand for such damaged or missing components and Product based upon the repair costs to qualify the Product for the Vendor's maintenance service or, if not available, to return the Product to good working condition.

Capitalized terms not defined in this Amendment shall have the meaning set forth in the Lease Agreement.

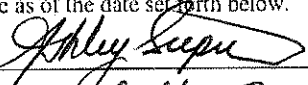
All other terms and conditions of the Lease Agreement shall remain in full and effect and the Lease Agreement shall be read and construed as if the terms of this Amendment were included therein.

Please acknowledge your agreement with the above, by signing in the space indicated below and returning the original to my attention via facsimile at (908) 898-4127. Should you have any questions or if I can be of further assistance, please do not hesitate to contact me at (908) 898-4556.

Sincerely,  
Hewlett-Packard Financial Services Company

By:   
Douglas R. Ahrens  
Operations Manager

The Lessee, by its undersigned authorized representative hereby accepts and agrees to the terms of this Amendment effective as of the date set forth below.

By: 

Print Name: Ashley Super

Print Title: PAIII DAS GSE

Date: 8/19, 2005

cc: Robert Cianciulli, Esq.

THOMAS J. VILSACK  
GOVERNOR

SALLY J. PEDERSON  
LT. GOVERNOR



Thursday, August 16, 2001

To: All agency purchasing agents and business managers.

RE: Contract No. CT90-00151L Lease Agreement with Compaq Financial Services  
in association with WSCA contractor Compaq Computers.

Attached are copies of the short form contract, the entire lease agreement itself and all related forms. Your CTQ purchase orders should be issued against this new contract in the event your agency wishes to negotiate a lease of equipment from Compaq Computers. The orders are otherwise processed in the same manner as any WSCA order.

The Information which the product order sheet (Exhibit A) requires may be by attachment, and/or preferably be within the text of the PO. All purchase orders however must include the signed compliance certification (Exhibit B).

Please have your Chief Financial Officer or Agency Director sign and return to me the attached acknowledgement that she/he has read the entire agreement and understands it. No orders against this contract will be processed by DGS without their signed acknowledgement in our file.

Questions regarding the use of this lease agreement can be directed to myself or to:

Lori Arriola, Compaq Computers 515-226-0155

John Henderson, Compaq Financial Services 773-477-7028

Amy Hull, Compaq Financial Services 888-277-5942

Thank you,

Ms. Ashley Super

Purchasing Agent III

Phone: 515-281-7073

Fax: 515-242-5974

E-mail: Ashley.Super@dgs.state.ia.us



Acknowledgement of Acceptance  
CT90-00151L Lease Agreement

I, \_\_\_\_\_, \_\_\_\_\_ of  
(name) (title \* )

\_\_\_\_\_, have read the entire lease  
( agency)

agreement CT90-00151L signed with Compaq Financial Services and agree to its  
terms and conditions on behalf of my agency.

\_\_\_\_\_  
(signature) (date)

\* Person signing must be the agency's Chief Financial Officer, Deputy Director,  
or Director.

Return to:

Ashley Super  
Purchasing Agent III  
Iowa Department of General Services  
Purchasing Division  
Hoover State Office Building - Level A  
Des Moines, IA 50319-0105  
Phone: 515-281-7073  
Fax: 515-242-5974  
E-mail: [Ashley.Super@dgs.state.ia.us](mailto:Ashley.Super@dgs.state.ia.us)

THOMAS J. VILSACK  
GOVERNOR

SALLY J. PEDERSON  
LT. GOVERNOR



Tuesday, July 03, 2001

Ron Smith, Director  
North America Contracts & Bids  
Compaq Computer Corporation  
20555 SH 249  
Mailcode CCM0302-070  
Houston, TX 77070

SUBJECT: Lease amendment to WSCA Addendum #CT90-00151

Dear Mr. Smith,

I am please to enclose a signed original copy of the Lease Agreement and Warranty Agreement between Compaq Computer Corporation and the State of Iowa which you provided with your letter to our Deputy Director, Patti Schroeder dated June 1, 2001.

Thank you for your continuing good service to the State of Iowa.

Sincerely,

Ashley Super  
Purchasing Agent III  
Iowa Department of General Services  
Purchasing Division  
Hoover State Office Building - Level A  
Des Moines, IA 50319-0105  
Phone: 515-281-7073  
Fax: 515-242-5974  
E-mail: [Ashley.Super@dgs.state.ia.us](mailto:Ashley.Super@dgs.state.ia.us)  
Please visit our website at:  
<http://www.state.ia.us/government/dgs/index.html>

**Lease Number:** \_\_\_\_\_

### LEASE AGREEMENT

This Lease has been written in "Plain English". When we use the words **you** and **your** in this Lease, we mean **you, an agency or instrumentality of the STATE OF IOWA, or the customer**, which is the Lessee indicated below. When we use the words **we, us, and our** in the Lease, we mean the lessor, *(Insert Name)*  
Compaq Financial Services and its designees, agents, successors and assigns

#### 1. LEASE; DELIVERY AND ACCEPTANCE; AND, PAYMENT.

- a. You agree to lease the Equipment described in this Lease ("Products") as shown on a Product Order in the form attached hereto as Exhibit A issued by an agency or instrumentality of yours (the "Purchase Order") on the terms and conditions shown in this Lease.
- b. Both parties (we and you) acknowledge and understand that individual State of Iowa agencies or instrumentalities of you may, from time-to-time, issue a Product Order for Products. (This agreement does not extend to political subdivisions or their agencies or instrumentalities.) The terms of this Lease will govern all the rights and obligations of you and us for each Product Order.
- c. This Lease will become effective on the date this Lease has been executed by both you and us, and upon receipt by us of the Compliance Certifications and Statements attached hereto as Exhibit B, which substitutes for an executed opinion of counsel; an incumbency certificate from you concerning your officers executing this Lease; a certificate of appropriations for the current fiscal year which will be your fiscal year, beginning on July 1<sup>st</sup> and ending on June 30<sup>th</sup> of the next year; and, a statement of self insurance. Your obligation to pay the Lease Payment will begin on the date the Products are accepted by you, in accordance with subsection 1.d below. If the Products are accepted on a date other than the first day of the month, the Lease Payment will be prorated from the date of acceptance to the end of the calendar month in which delivery occurs. Lease Payments will be due on the first day of each subsequent month (or such other time period specified on the front of this Lease) designated by us. You will make all payments required under this Lease to us at the address we specify in writing. If any Lease Payment or other amount payable to us is not paid when it is due, interest on the principal unpaid Lease Payment(s) will accrue in accordance with and at the maximum rate allowed under Iowa Code section 421.40.
- d. When you receive the Products, you agree to inspect them to determine if the Products are in good working order. The Products will be deemed accepted by you upon the earlier of a) the delivery to us of a signed Delivery and Acceptance Certificate (if requested by us) or b) 20 consecutive days after delivery of the Products to you if previously you have not given written notice to us of your non acceptance.

**2. FUNDING INTENT.** Each agency or instrumentality of you which issues a Product Order under this Lease reasonably believe that funds can be obtained sufficient to make all Lease Payments and other payments during the term of this Lease for the Product(s) shown on the Product Order. Each agency or instrumentality agrees that its chief executive or administrative officer (or the administrative office that has the responsibility of preparing the

**Lease Number:** \_\_\_\_\_

budget submitted to your governing body (as applicable) will provide for funding for such payments in its annual budget request submitted to your governing body. If your governing body chooses not to appropriate funds for such payments, the agency or instrumentality agrees to request that your governing body will evidence such nonappropriation by specifically omitting funds for such payments due during the applicable fiscal period from the budget that it adopts. You and we agree that your obligation to make Lease Payments under this Lease will be your current expense and will not be interpreted to be a debt in violation of your applicable law or your constitutional limitations or requirements. Nothing contained in this Lease will be interpreted as a pledge of your general tax revenues, funds or monies.

**3. NONAPPROPRIATION OF FUNDS.** If sufficient funds are not appropriated and budgeted by your governing body in any fiscal period for Lease Payments or other payments due under a Product Order(s), and (b) the agency or instrumentality has exhausted all funds legally available for such payments, then you will give us written notice and the Product Order issued under this Lease will terminate as of the last day of your fiscal period for which funds for Lease Payments are available to the terminating agency or instrumentality. Such termination is without any expense or penalty, except for the portions of the Lease Payments and those expenses associated with return of the Products in accordance with this Lease for which funds have been budgeted and appropriated or are otherwise legally available to the terminating agency or instrumentality.

**4. NO WARRANTIES AS TO EQUIPMENT. WE ARE LEASING THE EQUIPMENT TO YOU "AS-IS". YOU ACKNOWLEDGE THAT V/E DO NOT MANUFACTURE THE EQUIPMENT. WE MAKE NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR OTHERWISE. YOU AGREE THAT, REGARDLESS OF CAUSE, WE ARE NOT RESPONSIBLE FOR AND YOU WILL NOT MAKE ANY CLAIM AGAINST US FOR ANY DAMAGES, WHETHER CONSEQUENTIAL, DIRECT, SPECIAL, OR INDIRECT DAMAGES.** We transfer to you for the term of this Lease any warranties made by the Vendor (as defined in this section of the Lease) under any supply contract with respect to the Products that are transferable. Both parties (we and you) acknowledge that you may be entering in one or more separate agreements with the Product's manufacturer, its designated reseller or other authorized entity (collectively Vendor) to provide certain Product services (Services Agreement). Both parties (we and you) acknowledge and agree that the Services Agreement may require the Vendor to make Lease Payments to us directly or indirectly. We agree to accept such payments from the Vendor as if you made such Lease Payment(s). We also agree to reduce any Lease Payment due by you or to become due under the Lease by the amount we receive from the Vendor. Notwithstanding the foregoing, nothing herein shall be deemed to alter or extend any Lease Payment due date under any Lease.

**5. PRODUCT LOCATION; FINANCING STATEMENTS; USE AND REPAIR; AND, RETURN.**

- a. You will keep and use the Products only at the Location(s) shown in each Product Order. You may move the Products within the agency or to field offices of an agency. If requested to do so by us, the agency moving the Products will notify us in writing of the location(s) to

**Lease Number:** \_\_\_\_\_

which the Products have been moved which notice shall be provided within thirty (30) days of the date of our request.

- b. At our request, you will sign or obtain and send us any financing statements, waivers or financial information that we reasonably ask for.
- c. At your own cost and expense, you will keep the Products eligible for any manufacturer's certification, in compliance with all applicable laws and in good condition, except for ordinary wear and tear. You will not make any alterations, additions or replacements to the Products without our prior written consent, which consent will not be unreasonably withheld. With the exception of software and data that will not become part of the Products, other alterations, additions and replacements will become part of the Product and will be our property (subject to your Lease rights) at no cost or expense to us. We may inspect the Product at any reasonable time during your normal working hours.
- d. Within 10 days of the expiration or earlier termination of this Lease you will, unless you enter into a written renewal agreement with us, based upon our reasonable determination of the then fair market value of the Products, deliver the Products to us in good condition and repair, except for ordinary wear and tear, to any place in the United States that we tell you, and upon our request, you will provide us with a certification from the Vendor regarding the Product's condition. You will pay all expenses of deinstalling, crating and shipping, and you assume the risk of loss during shipping.

**6. TAXES AND FEES.** During the term of this Lease, we will assume responsibility for filing all property tax returns and paying such taxes. We may either (a) estimate the annual tax obligation and collect a portion of same with each Lease Payment (with an annual reconciliation of excess or insufficient collections), or (b) we may invoice you for property tax due and owing by you to us and you agree to reimburse us. We acknowledge that you are a tax exempt entity. Janet: Can the state's agencies and instrumentalities provide a tax exception certificate to support this acknowledgement?

**7. LOSS OR DAMAGE.** As between you and us, you are responsible for any loss, theft or destruction of, or damage to, the Products (collectively "Loss") from any cause at all, whether or not insured, until same is delivered to us at the end of this Lease. You are required to make all Lease Payments even if there is a Loss. You must notify us in writing immediately of any Loss. Then, at our option, you will either (a) repair the Products so that it is in good condition and working order, eligible for any manufacturer's certification, or (b) pay us the amounts specified in Section 11(b) below.

**8. INSURANCE.** You will provide a statement of self-insurance for property damage and public liability risks with respect to the Products leased under this Lease. In lieu of maintaining an insurance policy(ies) for property damage and public liability, you may self insure against such risks, provided that our interests are protected and we are allowed to make a lawful claim under applicable law for reimbursement in the event of loss or damage to the Product. You will promptly notify us if the law authorizing us to make a claim against you for property damage or public liability changes during the term of this Lease,. If we reasonably believe that our ability to make a lawful claim is diminished as a result of the change in the law, we may require you to provide and maintain a policy of insurance for property damage and public liability in reasonable amounts to protect our interests for the remainder of the Lease.

**Lease Number:** \_\_\_\_\_

**9. TITLE; RECORDING.** We are the owner of the Products. You will keep the Products free of all liens and encumbrances. As a precautionary measure, in the event this is determined to be a lease intended as security with respect to the Product, you grant us a purchase money security interest in the Product (including any replacements, alterations and additions, except software and data). You will deliver to us signed financing statements or other documents we reasonably request to protect our interest in the Product. **YOU AUTHORIZE US TO FILE A COPY OF THIS LEASE, TOGETHER WITH THE PRODUCT ORDER, AS A FINANCING STATEMENT AND YOU AGREE TO EXECUTE AND PERMIT US TO FILE, ON YOUR BEHALF, FINANCING STATEMENTS COVERING THE PRODUCT(S).**

We and you acknowledge that this Lease is not subject to consumer protections or consumer remedies or consumer warranties that may be granted by Iowa or federal law.

**10. DEFAULT.** Each of the following is a "Default" under this Lease:

- a. You fail to pay any Lease Payment or any other payment when it is due under this Lease, or
- b. You breach or fail to perform any representations, warranties or agreements under this Lease, and the failure continues for 30 or more consecutive days after we give you written notice of the failure.

**11. REMEDIES.** If a Default occurs and remains uncured, we may do one or more of the following:

- a. We may cancel or terminate the Product Order for the agency in default under the terms of this Lease; and,
- b. We may require you to deliver the Products to us as set forth in Paragraph 5.
- c. If the Equipment has been lost by you or damaged by you beyond its repair, we may require you to pay the amount listed on the Stipulated Loss Table attached to the Product Order..
- d. We may exercise any other right or remedy available at law or in equity.

Our rights are cumulative and non-exclusive.

**12. ASSIGNMENT. YOU MAY NOT ASSIGN, SELL, TRANSFER, OR SUBLEASE THE PRODUCTS OR YOUR INTEREST IN THIS LEASE.** We may sell, assign, or transfer this Lease, the Lease Payments, our rights in the Product(s) and/or any portion of the foregoing, so long as your right to use the Product(s) during the term of this Lease are not disrupted and your rights under this Lease do not change. You also agree that the new owner will have the same rights and benefits that we have now under this Lease. You agree that regardless of cause, the new owner(s) are not responsible for and you will not make any claim against them for any damages, whether consequential, direct, special, or indirect (including, without limitation, any claim for loss of profits, loss of data or indirect, special, punitive, incidental or consequential damage or expense caused by the malfunction or defect of the products or any services, covered by a separate services agreement. This provision shall apply even if you have been advised of the possibility of such damage, loss, expense or cost. The rights of the new owner are absolute and unconditional and will not be subject to any abatement, claim, counterclaim, defense or set-off that you may have against us except as specifically required under Iowa law

**Lease Number:** \_\_\_\_\_

(See, Iowa Code chapter 421.). The new owner will also agree to accept Lease Payment(s) from a Vendor as stated in paragraph 4 of this Lease.

**13. INDEMNIFICATION.** You are responsible for any losses, damages, taxes, penalties, interest, claims, suits, actions and any attorneys' fees (collectively "Claims"), whether based on a theory of strict liability or otherwise caused by or related to (a) the manufacture, installation, use, lease, possession, or delivery of the Product or (b) any defects in the Product. To the extent allowed by the Iowa Constitution and Iowa law, you agree to reimburse us for, and if we request, to defend us against any Claims.

**14. AUTHORIZATION AND PRODUCT USE.** You represent that:

- a. You are a state agency or an instrumentality of the State of Iowa; and,
- b. The entering into and performance of this Lease is authorized under your State laws and constitution and does not violate or contradict any judgment, law, order, or regulation, or cause any default under any agreement to which you are a party; and,
- c. You have complied with all bidding requirements and, where necessary, have properly presented this Lease for approval and adoption as a valid obligation on your part; and,
- d. You have sufficient appropriated funds or other moneys available or which will become available, to pay all amounts due under this Lease for your current fiscal period; and,
- e. The use of the Products is essential for your proper, efficient and economic operation, you will be the only entity to use the Products during the term of this Lease and you will use the Products only for your governmental purposes. Upon our request, you agree to provide us with any other documents that we reasonably request, with all such documents being in a form reasonably satisfactory to us, and
- f. You will make a reasonable request for spending authority for the continued funding of the Lease during the budget process before the budget is submitted to the General Assembly.

**15. CHOICE OF LAW. THIS LEASE WILL BE GOVERNED BY THE LAWS OF THE STATE OF IOWA AND ANY LAWSUIT SHALL BE BROUGHT ONLY IN IOWA STATE COURT IN POLK COUNTY, OR IN FEDERAL COURT IN THE SOUTHERN DISTRICT OF IOWA, IF VENUE AND JURISDICTION ARE PROPER IN FEDERAL COURT.**

**16. CHANGES TO LEASE IN WRITING; ENFORCEMENT OF RIGHTS.** You agree that the terms and conditions contained in this Lease and the Product Order make up the entire agreement between you and us regarding the lease of the Products. This Lease is not binding on either party until both you and us have signed it. Any change in any of the terms and conditions of this Lease must be in writing and signed by both you and us. If we delay or fail to enforce any of our rights under this Lease, we will still be entitled to enforce those rights at a later time, if the claim is within the applicable statute of limitations.

**17. NOTICES.** All notices will be given in writing by the party sending the notice and will be effective when the notice is received by the other party as shown on the proof of mailing or delivery (such as US Certified Mail, Return Receipt Requested or a delivery receipt signed and dated by the party to whom the notice is delivered) at the address shown on the front of this

**Lease Number:** \_\_\_\_\_

Lease (or to any other address specified by that party in writing). All notices will be sent by one party to the other postage or delivery prepaid.

# **18. MISCELLANEOUS.**

- a. This Lease is for the benefit of and is binding upon you, your successors and assigns.
- b. If a court finds any provision of this Lease to be unenforceable, the remaining terms of this Lease remain in effect.
- c. All of our rights and indemnities will survive the termination of this Lease.
- d. It is the express intent of the parties not to violate any applicable usury laws or to exceed the maximum amount of time price differential or interest and other charges, as applicable, permitted to be charged or collected by applicable law, and any such excess payment will be applied to Lease Payments in inverse order of maturity, and any remaining excess will be refunded to you.
- e. If you do not perform any of your obligations under this Lease, we have the right, but not the obligation, to pay any amounts that we believe are reasonably necessary to protect our interests. To the extent allowed under the Iowa Constitution and Iowa law, you agree to reimburse us upon our demand for any such amounts that we reasonably pay.

BY SIGNING THIS LEASE: (I) YOU AND WE ACKNOWLEDGE THAT YOU AND WE HAVE READ AND UNDERSTAND THE TERMS AND CONDITIONS OF THIS LEASE, (II) BOTH PARTIES AGREE THAT THIS LEASE IS A NET LEASE THAT CANNOT BE TERMINATED OR CANCELED EXCEPT AS SPECIFICALLY PROVIDED HEREIN, (III) EACH PARTY WARRANTS TO THE OTHER THAT THE PERSON SIGNING THIS LEASE ON ITS BEHALF HAS THE AUTHORITY TO DO SO AND TO GRANT THE POWER OF ATTORNEY SET FORTH IN THIS LEASE, AND (IV) YOU CONFIRM THAT YOU DECIDED TO ENTER INTO THIS LEASE RATHER THAN PURCHASE THE PRODUCTS YOU AND WE EXPRESSLY WAIVE ANY RIGHTS TO A TRIAL BY JURY. YOU AGREE THAT THIS LEASE IS NOT FINAL UNTIL SIGNED BY EACH PARTY.

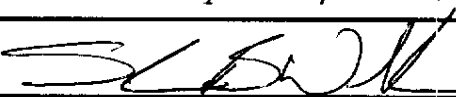
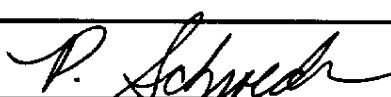
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**(SIGNATURE PAGE FOLLOWS THIS PAGE.)**



Lease Number: \_\_\_\_\_

**SIGNATURES AND NOTICES****SIGNATURES:**

<b>LESSOR:</b>  Compaq Financial Services 420 Mountain Ave. P.O. Box 6 Murray Hill, NJ 07974	<b>STATE OF IOWA, IOWA DEPARTMENT OF GENERAL SERVICES, FOR AND ON BEHALF OF STATE AGENCIES AND INSTRUMENTALITIES OF THE STATE OF IOWA:</b>
<b>BY:</b> 	<b>BY:</b> 
<b>TITLE:</b> Shannon Walker	<b>TITLE:</b> DEPUTY DIRECTOR
<b>DATE:</b> Operations Manager	<b>DATE:</b> 7-2-01

**ADDRESSES FOR NOTICES:**

<b>FOR LESSOR:</b>	<b>FOR STATE:*</b>
<b>Name:</b> Compaq Financial Services	<b>Name:</b> IOWA DEPT OF GENERAL SERVICES
<b>Street Address or PO Box:</b> P.O. Box 6 420 Mountain Ave.	<b>Street Address or PO Box:</b> LEVEL A HOOVER BLDG
<b>City, State, Zip:</b> Murray Hill, NJ 07974	<b>City, State, Zip:</b> DES MOINES, IA 50319-0105
<b>Telephone:</b> 908-898-4519	<b>Telephone:</b> 515-281-3196
<b>FAX:</b> 908-898-4155	<b>FAX:</b> 515-281-515-242-5974
	<b>*Please Note:</b> Each Product Order must also contain the names and addresses of individual agency contacts who must also receive notices under this Lease.

Lease Number: \_\_\_\_\_

## EXHIBIT A PRODUCT ORDER

<b>CUSTOMER INFORMATION</b>	(Name) <b>IOWA DEPARTMENT OF GENERAL SERVICES, FOR AND ON BEHALF OF THE STATE OF IOWA AND ITS AGENCIES OR INSTRUMENTALITIES</b>		Purchasing Agent Ph #:
<b>CUSTOMER ADDRESS</b>	Hoover State Office Building, Level A Des Moines, Iowa 50319		Purchasing Agent Fax #:
<b>PURCHASING AGENT'S NAME</b>			
<b>DESCRIPTION OF PRODUCTS</b>	Equipment: <b>[See attached Product Order Schedule. Additional order forms may be attached to this Lease.]] (Please Note: Other Vendor Product Invoices may be used provided that they do not alter the terms of this Lease or the Master Services Agreement.)</b>		
<b>TERM AND LEASE PAYMENT SCHEDULE</b>  (The Stipulated Loss Value Table as referenced in section 11 of the Master Lease Agreement must be attached to this document as part of the transaction.)	Lease Term:	Lease Payment:  Principal:  Interest:  Maintenance:	<b>It is the intent of both parties that this Lease be an operating lease, and not a capital lease as a capital lease (conditional sale) is characterized in Iowa Code section 12.28. The agency and the Lessor should satisfy themselves that the terms of this Lease comply with all parts of F.A.S.B. #13, and its interpretations, explanations and clarifications.</b>

**Important!! An Executed Compliance Certifications and Statements (Exhibit B to the Lease) must accompany each transaction. Agencies must complete Compliance Certifications and Statements and attach it to this document.**

**NOTE:** This document must be completed and signed by the Agency head or designee together (with the signature of an appropriate state employee to attest to the truthfulness of the statements). A copy of the executed document and the completed Lease Agreement cover sheet must be forwarded to the Department of General Services, Hoover Bldg, Level A, Attention: Purchasing Section.

**Lease Number:** \_\_\_\_\_

**EXHIBIT A  
TO  
LEASE AGREEMENT  
(Together with Vendor's Product Order Schedule)**

**SECTION 1.C COMPLIANCE CERTIFICATIONS AND STATEMENTS  
AND  
STATEMENT OF TERM OF SERVICES AGREEMENT**

Pursuant to Section 1.C of the Lease Agreement by and between the Iowa Department of General Services, for and on behalf of \_\_\_\_\_ (Insert Agency Name), an agency or instrumentality of the State of Iowa (customer), and \_\_\_\_\_ (Insert Lessor's Name) (lessor), dated January 10, 2000, this document is attached to and incorporated into the Lease Agreement. By completing and executing this document, the customer and its individual agencies and instrumentalities satisfy the requirements contained in Section 1.C of the Lease Agreement to provide an incumbency certificate from the agency or instrumentality concerning its officer(s) executing this Lease Agreement; a certificate of appropriations or funding authority for the current fiscal year which will be the fiscal year, beginning on July 1<sup>st</sup> and ending on June 30<sup>th</sup> of the next year; and, a statement of self insurance. This document also satisfies the agency's requirement to provide, and substitutes for, an executed opinion of counsel.

The term of the Services Agreement as designated herein (see, *Statement of Term of Services Agreement* below) and as shown on the Product Order Schedule and accompanying invoice(s) is hereby incorporated into and made a part of the Master Services Agreement for the Lease Agreement for which this Exhibit A has been prepared and executed.

**Certificate of Incumbency:**

The undersigned being duly appointed or elected and acting as \_\_\_\_\_ (Title) of \_\_\_\_\_ (Insert Agency Name) does hereby certify that the person(s) listed below is/are authorized to enter into this Lease Agreement with \_\_\_\_\_ (Insert Lessor's Name) and the person(s) listed below is/are duly authorized representative(s) of the customer in the capacity set forth opposite the name(s) and that the signature(s) is/are true and correct and, as of the date hereof, have proper statutory or corporate power and authority to execute and deliver any Lease Agreement between the customer and the lessor, any Product Order Schedules pursuant thereto and the documents required thereunder.

***Remainder of this Page Intentionally Blank.***

**NOTE:** This document must be completed and signed by the Agency head or designee together (with the signature of an appropriate state employee to attest to the truthfulness of the statements). A copy of the executed document and the completed Lease Agreement cover sheet must be forwarded to the Department of General Services, Hoover Bldg, Level A, Attention: Purchasing Section.

**Lease Number:** \_\_\_\_\_

<b>Name</b> (Print or Type)	<b>Title</b> (Print or Type)	<b>Signature</b>

(Please note: you cannot certify your own signature. The signature below must be the signature of someone other than the person(s) named above.)

I hereby attest that the information shown above is true and correct as of this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.

<b>Name</b> (Print or Type)	<b>Title</b> (Print or Type)	<b>Signature</b>

**Certificate of Appropriation/Funding Authority:**

On the date of execution of this document, the agency certifies that it has sufficient appropriated funds or other moneys available or which will become available, to pay all amounts due under this Lease Agreement for the current fiscal period. In accordance with the Lease Agreement the agency will make a reasonable request for an appropriation or spending authority for the continued funding of the Lease Agreement during the budget process before the budget is submitted to the Iowa General Assembly.

**Statement of Self-Insurance:**

The entity named above is an agency or an instrumentality of the State of Iowa. The State of Iowa is self-insured. Lessor may make claims for damage against the agency and the State of Iowa in accordance with the Iowa constitution and Iowa Code chapters 25 and 669, and the rules promulgated thereunder.

**Statement of Term of Services Agreement:**

(Please Note: The term of the Services Agreement must be stated here.)

In accordance with Section 1, subsection 2 of the Master Services Agreement, the Services Agreement applicable to the Lease Agreement for which this Exhibit has been prepared and executed will be in effect for a period of \_\_\_\_\_ months/years as shown on the Product Order Schedule and the accompanying invoice(s). (Note: The period of the Services Agreement must be the same as the Lease Agreement, unless the agency and the lessor specifically agree otherwise. The authorized agency representative and the authorized lessor's representative must initial this section.)

<b>Agency Representative Initials</b>	
<b>Lessor Representative Initials</b>	

**Remainder of this Page Intentionally Blank. Signature Page Follows this Page.**

**NOTE:** This document must be completed and signed by the Agency head or designee together (with the signature of an appropriate state employee to attest to the truthfulness of the statements). A copy of the executed document and the completed Lease Agreement cover sheet must be forwarded to the Department of General Services, Hoover Bldg, Level A, Attention: Purchasing Section.

**Lease Number:** \_\_\_\_\_

**Signature Page**

**EXHIBIT A  
SECTION 1.C COMPLIANCE CERTIFICATIONS AND STATEMENTS  
AND  
STATEMENT OF TERM OF SERVICES AGREEMENT**

<b>Name of Authorized Agency Representative:</b> (Please print or Type)	<b>Signature of Authorized Agency Representative:</b>
<b>Title of Authorized Agency Representative:</b> (Please print or Type)	<b>Date:</b>

Warranty Agreement Draft: 04/08/99

### LEASE WARRANTY AGREEMENT

WHEREAS, the State of Iowa (herein "State") and Compaq Computer Corporation (herein "Compaq") enter into this Warranty Agreement concerning warranty coverage for leased products (hereinafter together referred to as a "Unit") being leased by the State of Iowa from Compaq Financial;

NOW, THEREFORE, the parties agree as follows:

1. Exhibit A sets forth the terms of the warranty for the leased Units. Notwithstanding anything to the contrary in Exhibit A, all hardware provided by Compaq shall be considered Compaq products for the purposes of warranty coverage.

2. Notwithstanding anything to the contrary in Exhibit A, the State agrees to lease units that meet or exceed the warranty period or the State agrees to purchase an extended warranty to meet the lease term. If the State fails or refuses to purchase an extended warranty, and the lease term extends beyond the warranty period, the warranties in this agreement shall not apply to the period beyond the standard warranty.

3. Compaq warrants that during the term of the product warranty, the Product, under normal use and service, will be free from defects in material and workmanship and shall comply with the applicable Specifications. The foregoing warranties shall not apply to items normally consumed during operation such as, but not limited to, lamps and fuses.

4. Compaq warrants that any installation Services performed by the Vendor with respect to a Product will be free from defects in workmanship for a period of the Lease Agreement.

5. If Hardware is not free from defects in material or workmanship and fails to comply with the applicable Specifications at any time during the Warranty period and Lease term, the Vendor will repair, replace or modify the defective Hardware so that it complies with the applicable Specifications. The warranty service shall be performed at the Installation Site or the Vendor's facility as determined by the Vendor.

If Compaq is unable to repair the specific Hardware within Ten (10) calendar days following a notification made directly to Compaq at 1-800-OK-COMPAQ only, and after review and determination by Compaq that the Hardware was not repaired and operational within ten (10) calendar days, then Compaq shall pay the State, the *pro rata* daily cost of the Lease Agreement for that specific Hardware item for each day such specific Hardware item is out of use beyond the first ten (10) calendar days following notification directly to Compaq. This shall continue to accrue until the specific Hardware item is repaired or replaced or the Lease Agreement terminates or expires. Compaq's obligation as to this section shall not arise from defects caused by User abuse or neglect.

5.a The warranties set forth in this Section shall not apply to any Products where the defect or non-conformance is due to (i) accident, fire, explosion, power failure, power surge or other power irregularity, lightning, alteration, abuse, misuse or repair not performed by the Vendor; (ii) improper storage; (iii) failure to comply with all applicable environmental requirements for the Products as specified by the Vendor or any other applicable supplier, such as but not limited to temperature or humidity ranges; (iv) improper performance of installation, maintenance, operation or other service in connection with the Products, provided that such service was not performed by the Vendor or on the Vendor's behalf; or (v) use in conjunction with an incompatible product as specified by the supplier.

5b. **THE WARRANTIES SET FORTH IN THIS SECTION SHALL NOT APPLY TO THIRD PARTY SOFTWARE, PROVIDED HOWEVER THAT THE VENDOR SHALL ASSIGN TO THE CUSTOMER (TO THE EXTENT OF THE VENDOR'S RIGHT TO DO SO) THE WARRANTY RIGHTS GRANTED TO THE VENDOR BY THE APPROPRIATE SUPPLIER OF SUCH THIRD PARTY SOFTWARE.**

6. Unless the Vendor elects to repair or replace defective Hardware at the Customer's facility, all Hardware to be repaired or replaced shall be de-installed, packed and shipped by the Customer in accordance with the Vendor's instructions.

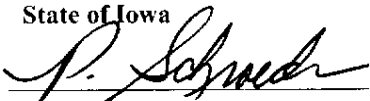
7. The Vendor warrants that the Products leased under the Lease Agreement will: (i) record, store, process, before, on and after December 31, 1999 and when used in accordance with the manufacturer's published Product user documentation covering, installation, use and maintenance as provided by the Vendor; (ii) lose no material functionality or substantially degrade in performance with respect to the introduction of records containing dates before, on or after December 31, 1999; and (iii) solely for the purpose of determining the interoperability of the Products with other equipment regarding the subject of Year 2000 readiness, the Products will be substantially interoperable with other equipment provided such equipment exchanges date data with the Products in accordance with the manufacturer's specifications.

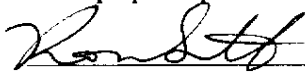
9. Performance of the Services by the Vendor shall comply with all substantive requirements of

Warranty Agreement Draft: 04/08/99

applicable federal or national laws, state or provincial laws, municipal and local ordinances and regulations in effect on the date of execution of this Agreement as well as industry standards for the performance of such Services; provided that the Customer shall have performed its responsibilities. If there are any violations of such laws or regulations (of which the Vendor had been notified by the Customer) due to the Vendor's action or inaction, the Vendor shall correct the violation at its sole expense.

IN WITNESS WHEREOF, the parties have executed this Agreement.

By: State of Iowa  
  
Printed Name: Patti Schroeder  
Title: Deputy Director, DGS  
Date: 7-2-01

By: Compaq Computer Corporation  
  
Printed Name: Ron Smith  
Title: Director, N.A. Contracts & Bids  
Date: 5-30-01

## Limited Warranty Statement for the United States and Canada

### Hardware Products Covered and Duration of Warranty

This Limited Warranty applies in the United States and Canada to Hardware Products manufactured or distributed by Compaq Computer Corporation (Compaq) under the Compaq brand name.

A Compaq Hardware Product is defined as a Compaq server, desktop, portable and certain Compaq options.

Consult the Hardware Product Warranty Tables (1) and (2) contained within this Limited Warranty for the restrictions and warranty period that applies to the Hardware Product you acquire and to determine where your warranty is valid. Contact your Compaq authorized reseller or Compaq if you have any questions about this Limited Warranty.

Compaq's obligations with respect to Software distributed by Compaq under the Compaq brand name are set forth in the applicable end user license agreement. Compaq has no other obligation to repair or replace software under this limited warranty. Non-Compaq Hardware and Software Products are provided on an "AS IS" basis. However, non-Compaq manufacturers, suppliers, or publishers may provide their own warranties.

### Terms of the Warranty

Compaq warrants that the Hardware Product you have acquired from Compaq or from a Compaq authorized reseller is free from defects in materials or workmanship under normal use during the warranty period. The warranty period commences on the date acquired. Your sales receipt, showing the date of acquired of the Hardware Product, is your proof of the date acquired. This warranty extends only to you, the original acquirer. It is not transferable to anyone who subsequently acquires the Hardware Product from you. It excludes expendable parts.

During the warranty period, Compaq will, at no additional charge, repair or replace defective parts with new parts or, at the option of Compaq, serviceable used parts that are equivalent or superior to new parts in performance.

All exchanged parts and Products replaced under this warranty will become the property of Compaq. If, after repeated efforts, Compaq is unable to restore the Product to good working order, you are entitled to a refund of the acquired price.

For the Portable Hardware Products listed in the Hardware Warranty Table (1), this Limited Warranty is valid at any Compaq authorized service provider location worldwide. Compaq is not responsible for any handling fees or import duties. For all other Hardware Products, this Limited Warranty is valid only within the United States and Canada, and within the country in which the Hardware Product was acquired. The Limited Warranty extends only to Products acquired from Compaq or from a Compaq authorized reseller. This Limited Warranty also does not extend to any Product that has been damaged or rendered defective (a) as a result of accident, misuse, or abuse; (b) as a result of an act of God; (c) by operation outside the usage parameters stated in the Product's User's Guide; (d) by the use of parts not manufactured or sold by Compaq; (e) by modification of the Product, or (f) as a result of service by anyone other than Compaq, a Compaq authorized reseller, or a Compaq authorized service provider. Compaq is not responsible for damages to or loss of any programs, data, or removable storage media. Contact your local Compaq authorized service provider for geographic restrictions, proof of acquired requirements, response time commitments and other specific on-site service requirements.



EXCEPT AS EXPRESSLY SET FORTH IN THIS WARRANTY, COMPAQ MAKES NO OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. COMPAQ EXPRESSLY DISCLAIMS ALL WARRANTIES NOT STATED IN THIS LIMITED WARRANTY. ANY IMPLIED WARRANTIES THAT MAY BE IMPOSED BY LAW ARE LIMITED TO THE TERMS OF THIS EXPRESS LIMITED WARRANTY.

#### Limitation of Remedy

Compaq is not liable for any damages caused by the Product or the failure of the Product to perform, including any lost profits, lost savings, incidental damages, or consequential damages. Compaq is not liable for any claim made by a third party or made by you for a third party.

This limitation applies whether damages are sought, or a claim made, under this warranty or as a tort claim (including negligence and strict product liability), a contract claim, or any other claim. This limitation cannot be waived or amended by any person. This limitation of liability will be effective even if Compaq or an authorized representative of Compaq has been advised by you of the possibility of any such damages. This limitation, however, will not apply to claims of personal injury.

### **Year 2000 Warranty Clarification**

Compaq commercial and consumer desktop PCs, portable PCs, servers and workstations acquired on or after October 7, 1997 pass the YMARK2000 test (Version 97.08.15). Failure to pass the YMARK2000 test, by any such product, will be treated by Compaq as a defect covered under its limited product warranty, subject to warranty limitations.

#### **Past Products - ROM BIOS Upgrades**

Compaq has also retained NSTL to test past products that you may have previously acquired from Compaq prior to October 7, 1997. For these products, ROM BIOS upgrades may be required to pass the test. Upgrades are available for many past products. Some past products may not be able to pass the YMARK2000 test, so you may wish to consider replacing them. Please visit the Product Tables for status of your product.

For any product acquired prior to October 7, 1997 requiring a ROM BIOS upgrade, you are responsible for installing the upgrade. If you have a service agreement in place with Compaq or an authorized Compaq service provider, unless specifically stated otherwise in the agreement, such upgrades are not covered. Please refer to your agreement for a full statement of your coverage.

#### **Additional Information**

The YMARK2000 test only tests the hardware's and firmware's ability to support the transition to the Year 2000 and not that of options (including the PC companion), operating systems or software applications. Despite a system's ability to pass the YMARK2000 test, actual roll-over results may vary depending on factors including but not limited to other hardware, operating systems, software applications, environmental factors (including temperature) and power supply. Compaq is currently testing its own applications and is in the process of publishing the results on this website. For information on the operation of third-party operating systems and software applications, again, see Compaq's white paper Preparing for the Year 2000.

Tests of Compaq products through October 7, 1997 were conducted exclusively by NSTL. Under NSTL's guidance, Compaq is now conducting self-testing on new products as they are released. The products of Tandem, a Compaq company, are not covered by Compaq's Year 2000 Compliance Program. Tandem has its own independent Year 2000 Compliance Program. For more information, visit the Tandem site at <http://www.tandem.com>.

#### **Program Notices**

THE LIMITED WARRANTIES FOR COMPAQ PRODUCTS ARE EXCLUSIVELY SET FORTH IN THE DOCUMENTATION ACCOMPANYING SUCH PRODUCTS AS CLARIFIED BY THIS WEB

PAGE. COMPAQ IS NOT LIABLE FOR ANY DAMAGES CAUSED BY PRODUCTS OR THE FAILURE OF PRODUCTS TO PERFORM INCLUDING ANY LOST PROFITS, LOST SAVINGS, INCIDENTAL DAMAGES, OR CONSEQUENTIAL DAMAGES. COMPAQ IS NOT LIABLE FOR ANY CLAIM MADE BY A THIRD PARTY OR MADE BY YOU FOR A THIRD PARTY. THIS LIMITATION APPLIES WHETHER DAMAGES ARE SOUGHT, OR A CLAIM IS MADE, UNDER WARRANTY OR AS A TORT CLAIM (INCLUDING NEGLIGENCE AND STRICT PRODUCT LIABILITY), A CONTRACT CLAIM, OR ANY OTHER CLAIM. THIS LIMITATION OF LIABILITY WILL BE EFFECTIVE EVEN IF COMPAQ OR AN AUTHORIZED REPRESENTATIVE OF COMPAQ HAS BEEN ADVISED BY YOU OF THE POSSIBILITY OF ANY SUCH DAMAGES. THIS LIMITATION OF LIABILITY, HOWEVER, WILL NOT APPLY TO CLAIMS FOR PERSONAL INJURY. SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES SO THE FOREGOING LIMITATION MAY NOT APPLY. THE MCGRAW-HILL COMPANIES, INCLUDING NATIONAL SOFTWARE TESTING LABORATORIES DIVISION, MAKES NO GUARANTIES OR WARRANTIES AS TO THE ACCURACY OR COMPLETENESS OF OR RESULTS TO BE OBTAINED FROM ACCESSING AND USING THE YMARK2000 TEST OR OTHER INFORMATION ON ITS WEBSITE. NEITHER THE MCGRAW-HILL COMPANIES NOR ITS AFFILIATES SHALL BE LIABLE TO ANY USER OR ANYONE ELSE FOR ANY INACCURACY, ERROR OR OMISSION, REGARDLESS OF CAUSE, IN THE YMARK2000 TEST OR OTHER INFORMATION OR FOR ANY DAMAGES RESULTING THEREFROM.

**Subject: Packaging and Shipping Services (PASS) Program**

**Recommendation:**

Approve program as submitted.

**Executive Summary:**

**Overview**

**PASS** allows for some of the costs and logistics planning of returning end of lease equipment to be incorporated into the initial lease transaction.

PASS includes:

- a minimum unit return of 15 pieces per location per pickup. Pricing is based on weight and miles
- Copy of bill of lading
- Packing material
- Packing labor at pickup location/loading dock
- Pickup scheduling
- Transportation
- Insurance

There are three possible methods for charging for this service:

1. Uplift
2. Financed
3. Lump Sum

All of which would be schedule based, i.e., good for the schedule as executed.

Pricing is accomplished via a pricing calculator for the following equipment:

- Desktop PC's
- Monitors
- Laptops
- Docking Stations
- Printers
- Desktop Servers (excluding clusters, 8-ways or above)

Utilizing the pricing calculator to achieve the program pricing, a rep can plug in the specific numbers of units per type listed above, the average unit price for those units, and

the breakdown of the units location as specified as East of the Mississippi, West of the Mississippi, Eastern or Western Canada. The model then calculates minimum charges and if the corresponding lease rate factor is also input, then the model will calculate an uplift factor that can be quoted and used.

The following conditions/items, if part of the equation would necessitate a Special Bid quotation:

- If the customer wishes to package the materials themselves
- Any transaction that would include international shipping (notwithstanding Canada).
- Any equipment not covered by the pricing calculator (NSD servers, Alpha Servers, 8-way Proliant, StorageWorks)
- Equipment in Alaska, Hawaii, or Puerto Rico in U.S. or Yukon or Northwest Territories in Canada
- Customers requiring a refund or relief on unreturned equipment

In addition, the following conditions will dictate surcharges to apply at the time of equipment return:

- Customer has a unionized loading dock at any of their facilities
- Customer requires time specific pick-ups (outside of two day window)